

Fee Issues in Bankruptcy Courts

Below is a discussion of those fees in bankruptcy courts that are impacted by the changes included in the Deficit Reduction Act. Fees that are not affected by the changes in the Act will remain at the current level.

Chapter 7 Filing Fee

Effective April 9, 2006, the total fee due at filing for a chapter 7 case will be \$299; this amount includes the statutory filing fee of \$245, the \$39 administrative fee and the \$15 case trustee fee. This fee will apply to all new cases filed on or after April 9, 2006.

Chapter 13 Filing Fee

Effective April 9, 2006, the total fee due at filing for a chapter 13 case will be \$274; this amount includes the statutory filing fee of \$235 and the \$39 administrative fee. This fee will apply to all new cases filed on or after April 9, 2006.

Chapter 11 Filing Fee

The Chapter 11 filing fee will not change from its current amount of \$1,000. It appears that Congress intended to increase chapter 11 filing fees from \$1,000 to \$2,750. However, there is a drafting error in the language of the Deficit Reduction Act which references the incorrect statutory subsection. Thus, the chapter 11 fee, at this time, is unaltered. We will keep you apprised of Congress's actions to address this drafting error.

Fee for Converting to a Chapter 11

The increases to the chapter 7 and chapter 13 fees mandated by the Deficit Reduction Act will impact the fee to convert a chapter 7 or chapter 13 case to a chapter 11 case, as prescribed by 28 U.S.C. § 1930 (a). Therefore, as of April 9, 2006:

- the fee for converting a chapter 7 case to a chapter 11 will be \$755 - the difference between the filing fee for a chapter 11 (\$1000) and the statutory fee for filing a chapter 7 case (\$245),
- The fee for converting a chapter 13 case to a chapter 11 case will be \$765 (the difference between the statutory filing fee for a chapter 11 case (\$1,000) and the statutory fee for filing a chapter 13 case (\$235).

Miscellaneous Fees

The changes to the fees for appellate, district, and bankruptcy courts also impact certain fees in the Bankruptcy Court Miscellaneous Fee Schedule. Several of the miscellaneous fees are linked to statutory filing fees, and thus, would change when the statutory fee changes. However, the Judicial Conference, at its March 2006 session, approved a recommendation from the Court Administration and Case Management Committee, in connection with the Bankruptcy Committee, to stay all increases in miscellaneous fees until these committees have had an opportunity to review the increases at their June meetings.

Following is a list of fees that are linked to the filing fees increased by the Deficit Reduction Act:

Item 6: The adversary filing fee is linked to the district court civil action filing fee. On April 9, the civil action filing fee will increase to \$350. However, the fee for filing an adversary proceeding in a bankruptcy case will remain \$250.

Item 11: The fee for reopening a case is the same as the statutory filing fee for the chapter under which the case was originally commenced. After April 9, 2006, the fee for reopening a case will remain the same as the amount of the statutory filing fee for the appropriate chapter prior to April 9. Therefore, even after April 9,

- the fee charged for reopening a chapter 7 case will remain \$220;
- the fee for reopening a chapter 11 case will remain \$1,000; and
- the fee for reopening a chapter 13 case will remain \$150.

Item 15: The fee for docketing an appeal is linked to the fee for filing an appeal in the Court of Appeals. Although the fee for filing an appeal in the Court of Appeals is increasing to \$450, the fee for docketing an appeal in the bankruptcy courts will remain \$250. In addition, **Item 21**, the fee for docketing a cross appeal, is also linked to the fee for filing an appeal in the Court of Appeals, and will likewise remain \$250.

Item 19: The fee for splitting a joint case is linked to the current filing fee for the chapter under which the case was originally commenced. However, due to the Judicial Conference action, the fee for splitting a case will not change. Therefore, even after April 9, 2006, the fee for splitting cases will remain as follows:

- the fee charged for splitting a chapter 7 case will remain \$220,
- the fee for splitting a chapter 11 case will remain \$1,000, and
- the fee for splitting a chapter 13 case will remain \$150.

Item 16: The fee for filing a chapter 15 proceeding is linked to the fee for filing a chapter 11. In the event that Congress acts to correct the drafting error discussed above, the fee for filing a Chapter 11 case will increase. However, due to the Judicial Conference action, the total fee for collected at the time of filing a chapter 15 will remain \$1,039, which includes the \$1,000 statutory fee for filing a chapter 11 case, and the \$39 administrative fee.